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IN THE

Supreme Court of the United States

OCTOBER TERM, A. D. 1968

No. 620

JAMES L. MOORE, et al.,

Plaintiff-Appellants,

vs.

SAMUEL SHAPIRO, Individually and as Governor of the State of Illinois, et al.

Defendants-Appellees.

(Appeal from the United States District Court for the Northern District of Illinois.)

BRIEF FOR APPELLEES.

QUESTIONS PRESENTED.

1) Whether the 1935 Amendment to Section 10-3 of the Illinois Election Code (Ill. Rev. Stat. 1967, Ch. 46, Par. 10-3) requiring among other things, that an individual seeking nomination for state wide office, must obtain at least 200 signatures upon his petitions from at least 50 counties, is a constitutional state election policy.

2) Whether the principles enunciated in *Reynolds* v. *Sims*, 377 U.S. 533, and *Gray* v. *Sanders*, 372 U.S. 368, pertaining to the debasement of voters in legislative and representative elections is applicable to nominating statutes where no election is required for a place on the ballot?

3) Whether the constitutionality of the 1935 Amendment to Section 10-3 is governed by the principle of whether an unreasonable burden has been placed upon an individual attempting to obtain a place on the ballot in the general election as contemplated in *Williams* v. *Rhodes*, 89 S. Ct. 3?

4) Whether the remedy suggested by the plaintiffs would negate the public policy of allowing individuals and new political parties a place on the ballot in this state?

SUMMARY OF ARGUMENT

Samuel Shapiro, Individually and as Governor of the State of Illinois, et al. submits that the decision of the United States District Court for the Northern District of Illinois should be affirmed for:

(1) The provision contained in the 1935 Amendment to Section 10-3 of the Illinois Election Code (Ill. Rev. Stat. 1967, Ch. 46, Par. 10-3) requiring that an individual seeking nomination for state wide elective office, to obtain among other things, at least 200 signatures on his petitions in at least 50 counties is a reasonable exercise of state policy. *MacDougall* v. *Green*, 335 U.S. 281 (1948).

(2) The doctrine of one-man, one-vote, applied in representative and legislative elections, is not applicable to the 1935 Amendment to Section 10-3 because

there is no requirement that the nomination be predicated upon an election.

(3) That the nominating provisions of the Illinois Election Code (Sections 10-2, 10-3, 21-1) do not create an invidious discrimination as contemplated by this Court under *Williams* v. *Rhodes*, 89 S.Ct. 3.

(4) That the relief requested by the plaintiffs would negate the public policy of permitting individuals and new political parties an opportunity to gain a place on the ballot in this state.

ARGUMENT

I.

THE ILLINOIS ELECTION CODE REQUIREMENT THAT AN INDIVIDUAL SEEKING NOMINATION FOR A STATE WIDE OFFICE OBTAIN PETITIONS CONTAINING 25,000 SIGNATURES, WITH AT LEAST 200 SIGNATURES FROM 50 COUNTIES, IS A CONSTITUTIONAL EXERCISE OF STATE ELECTION POLICY.

Of all subjects debated, editorialized and discussed during the past year, the mode of electing the President and Vice-President of the United States through our Electoral College, was one of the most topical and politically important.

The instant case is concerned with the manner of nominating Electors of the President and Vice-President in the State of Illinois under the provisions of the present Illinois Election Code (Ill. Rev. Stat., 1967, Ch. 46, Pars. 1, *et seq.*).

Statutory Method of Nomination of Electors.

The Constitution of the United Statees, Article II, Section 1, Clause 2, provides:

> "Each State shall appoint, in such manner as the Legislature thereof may direct, a number of Electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or person holding an office of Trust or Profit under the United States, shall be appointed an Elector."

Pursuant to the aforementioned constitutional grant of power, the General Assembly of the State of Illinois has

authorized the nomination of electors of the President and Vice-President of the United States in the following manner:

1) The electors to be presented by an established political party[1], at the general election are nominated and certified to be placed upon the ballot by party convention. Section 21-1 of the Election Code (Ill. Rev. Stat. 1967, Ch. 46, Par. 21-1). (Appendix to Br. p. xvii)

2) A new political party may nominate its electors, to be placed upon the ballot in the general election, by obtaining petitions signed by not less than 25,000 qualified voters, provided, however, said petitions contain the signatures of 200 qualified voters from each of at least 50 counties within the state. Section 10-2 of the Election Code (Ill. Rev. Stat. 1967, Ch. 46, Par. 10-2). (Appendix to Br. p. xii)

3) Individual candidates for elector may be placed upon the ballot in the general election by obtaining petitions containing the signatures of not less than 25,000 qualified voters, provided, however, that included in the aggregate are the signatures of 200 qualified voters from each of at least 50 counties within the State. Section 10-3 of the Election Code (Ill. Rev. Stats. 1967, Ch. 46, Par. 10-3). (Appendix to Br. p. xv)

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1 An "established political party" is a party which at the last general election for State and county offices, polled for its candidate for Governor more than 5% of the entire vote cast for Governor. Section 10-2 of the Election Code (Ill. Rev. Stat. 1967, Ch. 46, Par. 10-2). (Appendix to Br. p. xii).

Nature of this Proceeding.

This action was brought by twenty-six independent candidates for the office of Presidential and Vice-Presidential electors from the State of Illinois (App. 14). They alleged that they were improperly denied a place on the ballot in that the requirement of obtaining 200 signatures from at least 50 counties (Section 10-3 of the Election Code) is unconstitutional in that it debased the vote of those residing in the larger counties of the state.

The constitutionality of Section 10-2 of the Election Code providing for the nomination of a new political party was the salient issue in *MacDougall* v. *Green,* 335 U.S. 281 (1948) in which this Court held the requirement of 200 signatures from at least 50 counties was a valid state policy.

The plaintiffs argue that the decision of this Court in the *MacDougall* case has been overruled by *Baker* v. *Carr,* 369 U.S. 186 (1962), and therefore is not the existing law. (Appt's. Br. p. 6). Rather than overruling *MacDougall, Baker* held that the District Court had jurisdiction of such claims and cited *MacDougall* as authority for said proposition. In relation thereto, Mr. Justice Clark stated in *Baker* (pp. 251, 252):

> "I take the law of the case from *MacDougall* v. *Green,* 335 U.S. 281 (1948), which involved an attack under the Equal Protection Clause of an Illinois election statute. The Court decided that case on its merits without hindrance from the 'political question' doctrine. Although the statute under attack was upheld, it is clear that the Court based its decision upon the determination that the statute represented a rational state policy."

The issue presented in the instant case is identical to that presented in *MacDougall* with the exception, that the obtaining 25,000 signatures of which 200 must be from 50 different counties, applies to individuals rather than to a new political party. This represents "rational state policy" now as well as when the Court first considered the proposition in *MacDougall.*

Possible Constitutional Violation in Relation to Election Laws.

Constitutional attacks upon election laws in general fall into three separate classifications;

1) The debasement of an individual's vote by the estabishment of disproportionate populated districts in legislative or representative elections. *Reynolds* v. *Sims,* 377 U.S. 533 (1964).[3]

2) The disenfranchisement of a voter through the denial of the right to vote because of race, sex or lack of property as now prohibited by the Fifteenth, Nineteenth and Twenty-Fourth Amendments to the Constitution of the United States.

3) The invidious discrimination through the statutory imposition of substantial burdens on an individual or new political party to gain a place upon the Ballot for election. *Williams* v. *Rhodes,* 89 S. Ct. 3 (1968).

Application of Constitutional Provisions.

The plaintiffs allege that the 1935 Amendment to Section 10-3 of the Election Code (Ill. Rev. Stat. 1967, Ch. 46, Par. 10-3) (Appendix to Br. p. xv) is unconstitutional in that it violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. (Appt's. Br. p. 15)

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3 See also: *Martin* v. *Bush,* 376 U.S. 222 (1964); *Lucas* v. *Forty-Fourth General* 377 U.S. 713 (1964); *Swann* v. *Adams,* 378 U.S. 553 (1964); *Meyer* v. *Thigpen,* 378 U.S. 554 (1964); *Davis* v. *Mann,* 377 U.S. 678 (1964); *Williams* v. *Moss,* 378 U.S. 558 (1964).

Plaintiffs' argument is based upon the assumption that the doctrine of "one-man, one-vote" expressed in legislative apportionment cases (See *Reynolds* v. *Sims*, 377 U.S. 533, and *Gray* v. *Sanders*, 372 U.S. 368) is applicable in the case at bar. They urge the 1935 Amendment enables voters from less populous counties to block the nomination of candidates whose support is confined to a majority of the population which resides in geographical limited areas and therefore debases the vote of those residing in the large populated counties. (Appt's. Br., p. 14).

The defendants agree with the principles of the doctrine of "one-man one-vote" and the prohibition of disenfranchisement of a voter and readily admit that they apply equally to primary as well as general elections. *United States* v. *Classic*. 313 U.S. 299, 314; *Smith* v. *Allwright*, 321 U.S. 649; *People* v. *Fox*, 294 Ill. 263. However, this Court has has not extended these principles to the nominating processes enacted by legislatures pursuant to Article II, Section 1, Clause 2 of the United States Constitution which do not require a competitive election in order to gain a place upon the ballot for general election and should not so extend them. In the State of Illinois the electors of the President and Vice-President of the United States are placed upon the printed ballot of the general election by either party convention or nominating petition and not by election. Sections 10-2, 10-3 and 21-1 of the Election Code (Ill. Rev. Stat. 1967, Ch. 46, Pars. 10-2, 10-3 and 21-1) (Appendix to Br. p. xvii).

The question actually presented here is not the application of one-man, one-vote, or the disenfranchisement of a voter but rather whether the legislature has created a burden which for all practical purposes forecloses an indi-

vidual from obtaining a place on the printed ballot in a general election. If the legislature has so acted, its enactment can be nothing less than invidious discrimination and thus unconstitutional under the Equal Protection Clause of the Fourteenth Amendment of the United States. However, such is not the situation in the case at bar.

This Court in *Williams* v. *Rhodes,* 89 S.Ct. 3, (1968) struck down the nominating procedure for new political parties in the State of Ohio, because "Ohio, through the entangling web of election laws, has effectively foreclosed its presidential ballots to all but Republicans and Democrats."

Unlike the situation in the apportionment cases, the case at bar and the *Williams* case are not primarily concerned with the debasement or disenfranchisement of a voter, but rather of the prohibition placed against one attempting to seek public office. It is he, rather than the voter, who is the recipient of any direct harm. True the Court in *Williams* stated that the voter is deprived of the opportunity to vote for these new parties, yet it is the party which is primarily damaged.

In comparing the Ohio statute to those in Illinois, we believe there is little if any similarity in its effect upon one seeking office. [Facts cited relating to Ohio election procedures are contained in *Williams* v. *Rhodes,* 89 S.Ct. 3 (1968)].

In Ohio, an individual could not through any means except the write-ins receive votes. In Illinois, Section 10-3 permits him to be placed upon the printed ballot.

For a new political party, the Ohio statute requires that they garner 15% of the total vote cast in the last general election (In the *Williams* case, 433,100 signatures), while in Illinois a new party or individual is merely required to obtain 25,000 signatures or approximately a half of 1%

(Total vote cast in the 1964 General Election was 4,805,928. Official Canvass Secretary of State.) of the total voting in the last general election.

In Ohio the new party is required to obtain signatures of 15% of the number of those who voted in the last general election, while an established political party is one which received 10% of the vote of the last general election, thus placing a greater numerical burden on the new party in Ohio than on any established one. Conversely, in Illinois an "established political party" is one which received 5% of the votes at the last general election. (Sec. 10-2 of the Election Code (Ill. Rev. Stat. 1967, Ch. 46, Par. 10-2), (Appendix to Br. p. xii) while a new party or an individual is required to obtain only one-half of 1% of the number who voted in the last general election.

The Ohio statute requires the new party after obtaining the necessary amount of signatures to set up complicated party structure in order to nominate its candidates or electors. No such requirement is placed upon the new individuals or parties by the Illinois statutes.

In the foregoing, it is apparent that the requisites to be met under the Ohio statute are far more onerous than those presented in the case at bar.

It is reasonable and sound legislative policy for a state to set some *criteria* to be met before a new political party or individual may be placed upon a printed elected ballot. If none existed, chaos may well reign. The requisite of obtaining only one-half of 1% of the number that voted in the last general election and the obtaining of 200 signatures from 50 different counties does not present a serious problem to anyone seeking a statewide office.[4]

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4 It is of interest to note that the electors of George C. Wallace qualified under the requisites of Illinois statutes.

The majority of this Court in *MacDougall* v. *Green*, 335 U.S. 281, properly held that the state had the right to set up reasonable standards to be met and that the demonstration of some state-wide support under the circumstances was reasonable. The Court therein further noted that other jurisdictions also employ similar requisites.

The defendants submit that the statutes enacted pursuant to the Constitution of the United States, Article II, Section 1, Clause 2 for the election of electors for the President and Vice President are reasonable and that since the method of nomination of these electors does not require the utilization of the election machinery in that the vote of the people is not required for nomination, the apportionment decisions are not applicable.

The defendants submit that the sole question to be answered is whether the General Assembly of the State of Illinois has effectually blocked efforts by new parties and individuals to seek elective office in the State of Illinois under the pertinent statutes. The defendants submit that reason, comparison with other statutory requirements such as Ohio, and the fact that over the years the statute has not proved to be seriously detrimental, establishes that the requirement of Section 10-3 do not create an invidious discrimination against new political parties or individuals in derogation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

II.

THE REMEDY SUGGESTED BY THE PLAINTIFFS WOULD NEGATE THE POLICY OF ALLOWING INDIVIDUALS AND NEW POLITICAL PARTIES A PLACE ON THE BALLOT IN THIS STATE.

The plaintiffs relying upon the principles set forth in the appointment cases argue that the 1935 Amendment to Section 10-3 of the Election Code (Ill. Rev. Stat. 1967, Ch. 46, Par. 10-3) is violative of the fourteenth Amendment to the Constitution of the United States because an individual or new party could be nominated by approximately 6.6% of the Illinois Registered voters under the present statute (Section 10-3) and that it also could prevent 61% of the state's registered voters residing in Cook, DuPage, Lake, Madison and St. Clair Counties from nominating independent candidates for presidential electors. (Applt. Br., p. 17).

Assuming for the moment that their position is correct, the remedy they seek would merely compound the wrong, and negate the policy of allowing individuals and new political parties a place upon the ballot in the State of Illinois.

The plaintiffs ask that the requirement of 200 signatures from 50 counties be declared unconstitutional but that the requisite of the signatures of 25,000 qualified voters should stand in its original form. (Appt. Br., p. 20).

If the requirement of obtaining 200 signatures in 50 counties was declared unconstitutional as debasing the

vote of those in the larger counties under the constitutional doctrine of "one man, one vote" and it merely required the obtaining of 25,000 signatures, a new political party or independent candidate could be nominated by approximately half of 1% of the number who voted in the last general election who may live in one county in a distinct corner of the state rather than by the present 6.6%. The debasement of the voters in the larger counties would be of an even greater disparity.

In *MacDougall* v. *Green*, 335 U.S. 281 the dissent stated in part (P. 289):

> It is not enough to say that this law can stand that test because it is designed to require statewide support for the launching of a new political party rather than support from a few localities. There is no attempt here, as I have said, to make the required signatures even approximately proportionate to the distribution of voters among the various counties of the state. No such proportionate allocation could of course be mathematically exact. Nor would it be required. But when, as here, the law applies a rigid, arbitrary formula to sparsely settled counties and justify giving greater weight to the individual votes of one group of citizens than to those of another group.

If the principles stated therein were applied to the legislation in question, it would create the situation where a new political party or an individual would be required to seek an approximate proportionate amount of signatures in each of the 102 counties of the state and thus perhaps create invidious discrimination as discussed in *Williams* v. *Rhodes*, 86 S. Ct. 3

If a population proportion of the signatures are required to be garnered from each of the 102 counties, then the

declaration that the 1935 Amendment is unconstitutional would by necessity require a similar holding as to the 25,000 requirement as creating an invidious discrimination. This would create the anomaly that there would be no legislative method for a new political party or individual to be nominated and receive a place on the printed ballot at a general election.

The defendants snbmit that the principles of "one-man, one-vote," do not apply for the reasons stated herein, and that the statute in question does not create an undue burden to amount to invidious discrimination against one seeking to run for public office.

In addition thereto the 1935 Amendment to Section 10-3 should be declared valid for following the plaintiff's argument to its logical conclusion would only create chaos and defeat the intent and purpose of the statutes attempting to provide a reasonable means to allow new political parties and individuals to obtain a place on the printed ballot in a general election.

CONCLUSION

For the reasons urged above, it is respectfully submitted that the decision of the United States District Court for the Northern District of Illinois be affirmed.

Respectfully submitted,

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APPENDIX

The Election Code, Illinois Revised Statutes, 1967 Chapter 46.

An Act Concerning Elections:

Article 7. The Making of Nominations by Political Parties:

7—1. Application of this Article.] § 7-1. Except as herein otherwise provided, the nomination of all candidates for all elective State, congressional, county, city, village and incorporated town and municipal officers, clerks of the Appellate Courts, trustees of sanitary districts, township officers in townships of over 5,000 population co-extensive with or included wholly within cities or villages not under the commission form of government, township officers in townships of 7,500 or more population adjacent to cities of 75,000 or more population, and for the election of precinct, township, ward and State central committeemen, and delegates and alternate delegates to National nominating conventions by all political parties, as defined in Section 7—2 of this Article 7, shall be made in the manner provided in this Article 7, and not otherwise. The nomination of candidates for electors of President and Vice-President of the United States, and trustees of the University of Illinois, and the election of delegates and alternate delegates-at-large to National nominating conventions, shall be made only in the manner provided for in Section 7—9 of this Article. This Article 7 shall not apply to the nomination of Associate,

Circuit, Appellate and Supreme Court judges, or to the nomination of candidates for school elections and township elections, except in those townships hereinabove specifically mentioned, or to the nomination of park commissioners in park districts, organized under "The Park District Code", approved July 8, 1947, as heretofore and hereafter amended, or to the nomination of officers of cities and villages organized under special charters, or to nomination of municipal officers for cities, villages, and incorporated towns with a population of 5,000 or less. The words "township officers", or "township offices", shall be construed, when used in this Article, to include supervisors and assistant supervisors.

In cases where Representatives in the General Assembly are required by Section 8 of Article IV of the Constitution to be nominated and elected from the State at large in the year 1964, such nomination shall be made in the manner provided in Article 8A.

7—2. Political parties defined—Percentage of vote—Un-American organizations.] § 7-2. A political party, which at the general election for State and county officers then next preceding a primary, polled more than 5 per cent of the entire vote cast in the State, is hereby declared to be a political party within the State, and shall nominate all candidates provided for in this Article 7 under the provisions hereof, and shall elect precinct, township, ward and State central committeemen as herein provided.

A political party, which at the general election for State and county officers then next preceding a primary, cast more than 5 per cent of the entire vote cast within any congressional district, is hereby declared to be a political party within the meaning of this Article, within such congressional district, and shall nominate its candidate for Representative in Congress, under the provisions

hereof. A political party, which at the general election for State and county officers then next preceding a primary, cast more than 5 per cent of the entire vote cast in any county, is hereby declared to be a political party within the meaning of this Article, within said county, and shall nominate all county officers in said county under the provisions hereof, and shall elect precinct, township, and ward committeemen, as herein provided;

A political party, which at the municipal election for city, village or incorporated town officers then next preceding a primary, cast more than 5 per cent of the entire vote cast in any city or village, or incorporated town is hereby declared to be a political party within the meaning of this Article, within said city, village or incorporated town, and shall nominate all city, village or incorporated town officers in said city or village or incorporated town under the provisions hereof to the extent and in the cases provided in section 7—1.

A political party, which at the municipal election for town officers then next preceding a primary, cast more than 5 per cent of the entire vote cast in said town, is hereby declared to be a political party within the meaning of this Article, within said town, and shall nominate all town officers in said town under the provisions hereof to the extent and in the cases provided in section 7—1.

A political party, which at the municipal election in any other municipality or political subdivision, (except townships and school districts), for municipal or other officers therein then next preceding a primary, cast more than 5 per cent of the entire vote cast in such municipality or political subdivision, is hereby declared to be a political party within the meaning of this Article, within said municipality or political subdivision, and shall nominate

all municipal or other officers therein under the provisions hereof to the extent and in the cases provided in section 7—1.

Provided, that no political organization or group shall be qualified as a political party hereunder, or given a place on a ballot, which organization or group is associated, directly or indirectly, with Communist, Fascist, Nazi or other un-American principles and engages in activities or propaganda designed to teach subservience to the political principles and ideals of foreign nations or the overthrow by violence of the established constitutional form of government of the United Statees and the State of Illinois.

7—3. Political parties, determination of total vote.] § 7-3. In determining the total vote of a political party, whenever required by this Article 7, the test shall be the total vote cast by such political party for its candidate who received the greatest number of votes; provided however, that in applying this section to the vote cast for any candidate for an office for which cumulative voting is permitted, the total vote cast for such candidate shall be divided by that number which equals the greatest number of votes that could lawfully be cast for such candidate by one elector.

7—4. Definitions.] § 7-4. The following words and phrases in this Article 7 shall, unless the same be inconsistent with the context, be construed as follows:

1. The word "primary" the primary election provided for in this Article.

2. The definition of terms in Section 1—3 of this Act shall apply to this Article.

3. The word "precinct" a voting district heretofore or hereafter established by law within which all qualified electors vote at one polling place.

4. The words "state office" or "state officer," an office to be filled, or an officer to be voted for, by qualified electors of the entire state, including United States Senator and Congressman at large, but not including Representatives in the General Assembly to be elected from the State at large in the year 1964 in accordance with Article 8A.

5. The words "congressional office" or "congressional officer", representatives in Congress.

6. The words "county office" or "county officer," includes an office to be filled or an officer to be voted for, by the qualified electors of the entire county. "County office" or "county officer" also include the assessor and board of appeals and county commissioners and president of county board of Cook County.

7. The words "city office" and "village office," and "incorporated town office" or "city officer" and "village officer", and "incorporated town officer" an office to be filled or an officer to be voted for by the qualified electors of the entire city, village or incorporated town, as the case may be, including aldermen.

8. The words "town office" or "town officer", an office to be filled or an officer to be voted for by the qualified electors of an entire town.

9. The words "town" and "incorporated town" shall respectively be defined as in Section 1—3 of this Act.

7—5. Dates for holding primaries—More than one candidate required—Hours polls shall be open.] § 7-5. A primary shall be held on the second Tuesday in June in every year in which officers are to be voted for on the

first Tuesday after the first Monday in November of such year, for the nomination of candidates for such offices as are to be voted for at such November election.

A primary for the nomination of such officers as are to be voted for on the first Tuesday in April of any year, shall be held on the second Tuesday in February of such year, except that in cities of 500,000 or more population such primary shall be held on the last Tuesday in February of such year.

A primary for the nomination of such officers as are to be voted for on the third Tuesday in April of any year, shall be held on the last Tuesday in February of such year.

A primary for the nomination of all other officers, nominations for which are required to be made under the provisions of this Article, shall be held 7 weeks preceding the date of the general or municipal election for such officers respectively.

No primary shall be held where the name of not more than one person of each political party is entitled to be printed on the primary ballot as a candidate for the nomination for each office to be filled at an election at which no other offices are to be voted on.

The polls shall be open from 6:00 a. m. to 6:00 p. m. As amended by act approved July 7, 1965. L. 1965, p. 1272.

7—6. Expenses of primary.] § 7-6. The expense of conducting each primary, including the per diem of judges, furnishing, warming, lighting and maintaining the polling place, and all other expenses necessarily incurred in the preparation for or conducting such primary shall be paid in the same manner, and by the same authorities

or officers respectively as in the case of general elections or municipal elections.

* * * * * *

7—9. County central committee—County convention—State conventions—Nomination of Presidential Electors.] § 7-9. On the second Monday next succeeding the June primary at which committeemen are elected, the county central committee of each political party shall meet at the county seat of the proper county and proceed to organize by electing from its own number a chairman and either from its own number, or otherwise, such other officers as said committee may deem necessary or expedient. Such meeting of the county central committee shall be known as the county convention.

The chairman of each county commitee shall within 10 days after the organization, forward to the Secretary of State, the names and post office addresses of the officers, precinct committeemen and representative committeemen elected by his political party.

The county convention of each political party shall choose delegates to the State convention of its party; but in any county having within its limits any city having a population of 200,000, or over the delegates from such city shall be chosen by wards, the ward committeemen from the respective wards choosing the number of delegates to which such ward is entitled on the basis prescribed in paragraph (e) of this section, such delegates to be members of the delegation to the State convention from such county. In all counties containing a population of 500,000 or more outside of cities having a population of 200,000 or more, the delegates from each of the townships or parts of townships as the case may be shall be chosen by townships or parts of townships as the case may be, the township committeemen from the respective

townships or parts of townships as the case may be choosing the number of delegates to which such townships or parts of townships, as the case may be are entitled, on the basis prescribed in paragraph (e) of this section, such delegates to be members of the delegation to the State convention from such county.

(b) All State conventions shall be held on the first Friday after the second Monday next succeeding the June primary at which committeemen are elected. The State convention of each political party shall have power to make nominations of candidates of its political party for the electors of President and Vice-President of the United States and for trustees of the University of Illinois, and to adopt any party platform, and to choose and select delegates and alternate delegates at large to national nominating conventions.

(c) The chairman and secretary of each State convention shall, within 2 days thereafter, transmit to the Secretary of State of this State a certificate setting forth the names and addresses of all persons nominated by such State convention for election of President and Vice-President of the United States, and for trustees of the University of Illinois, and for delegates and alternate delegates at large to national nominating conventions; and the names of such candidates so chosen by such State convention for electors of President and Vice-President of the United States, and trustees of the University of Illinois shall be caused by the Secretary of State to be printed upon the official ballot at the general election, in the manner required by law, and shall be certified to the various county clerks of the proper counties in the manner as provided in Section 7—60 of this Article 7 for the certifying of the names of persons nominated by any party

for State offices; provided, that if and as long as this Act prescribes that the names of such electors be not printed on the ballot, then the names of such electors shall be certified in such manner as may be prescribed by the parts of this Act applicable thereto.

(d) Each convention may perform all other functions inherent to such political organization and not inconsistent with this Article.

(e) At least 33 days before the June primary at which committeemen are elected, the chairman of the State committee of each political party shall file in the office of the county clerk in each county of the State a call for the State convention. Said call shall state, among other things, the time and place (designating the building or hall) for holding the State convention. Such call shall be signed by the chairman and attested by the secretary of the committee. In such convention each county shall be entitled to one delegate for each 500 ballots voted by the primary electors of said party in such county at the June primary to be held next after the issuance of such call; and if in such county, less than 500 ballots are so voted or if the number of ballots so voted is not exactly a multiple of 500, there shall be one delegate for such group which is less than 500, or for such group representing the number of votes over the multiple of 500, which delegates shall have 1/500 of one vote for each primary vote so represented by him. The call for such convention shall set forth this paragraph (e) of Section 7-9 in full and shall direct that the number of delegates to be chosen be calculated in compliance herewith and that such number of delegates be chosen.

(f) All precinct, township and ward committeemen when elected as herein provided shall serve as though

elected at large irrespective of any changes that may be made in precinct, township or ward boundaries and the voting strength of each committeeman shall remain as herein provided for the entire time for which he is elected.

(g) The officers elected at any convention, hereinbefore provided for, shall serve for a term of 2 years.

(h) A special meeting of any central committee may be called by the chairman, or by not less than 25% of the members of such committee, by giving 5 days notice to members of such committee in writing designating the time and place at which such special meeting is to be held and the business which it is proposed to present at such special meeting.

(i) Except as otherwise provided in this Act, whenever a vacancy exists in the office of precinct committeeman because no one was elected to that office or for any other reason, the chairman of the county central committee of the appropriate political party may fill the vacancy in such office by appointment and the appointed precinct commiteeman shall serve as though elected.

* * * * *

10—1. Article limited to minor Political Parties and groups—Certificates of nomination.] § 10-1. Political parties as hereinafter defined and individual voters to the number and in the manner hereinafter specified may nominate candidates for public offices whose names shall be placed upon the ballot to be furnished, as hereinafter provided: However, no nominations (except of candidates for township and school district offices and offices of cities, villages and incorporated towns with a population of less than 5,000) may be made under the provisions of this Article 10 by any established political party which at the general election next preceding, polled more than 5% of the entire vote cast in the State, or in the electoral

district for which the nomination is made. Those nominations provided for in Section 1 of Article VI—A of "An Act to revise the law in relation to township organization", approved March 4, 1874, as amended, shall be made as therein prescribed for nominations by established political parties, but minor political parties and individual voters are governed by this Article. Any convention, caucus or meeting of qualified voters of any established political party as herein defined may make one nomination for each office therein to be filled at any election, for officers of such township, city, village or incorporated town, by causing a certificate of nomination to be filed with the clerk of such township, city, village or incorporated town. Every such certificate of nomination shall state such facts as are required in Section 10—5 of this Article, and shall be signed by the presiding officer and by the secretary of the convention, caucus or meeting, who shall add to their signatures, their places of residence. Such certificates shall be sworn to by them to be true to the best of their knowledge and belief, and a certificate of the oath shall be annexed to the certificate of nomination.

Only those voters who reside within the electoral district for which the nomination is made shall be permitted to vote or take part in the proceedings of any convention, caucus or meeting of individual voters or of any political party held pursuant to the provisions of this Section. No voter shall vote or take part in the proceedings of more than one convention, caucus or meeting to make a nomination for the same office.

No person is eligible to vote at any convention, caucus or meeting of any political party for the nomination of candidates for township offices unless he is a registered voter in the township and is affiliated with that party;

each person voting shall sign an affidavit that he is a registered voter and affiliated with the party holding such convention, caucus or meeting.

10—2. "Political party" and "established party" defined—Formation of new party—Petition—Provisional organization—Committeemen.] § 10-2. The term "political party," as hereinafter used in this Article 10, shall mean any "established political party," as hereinafter defined and shall also mean any political group which shall hereafter undertake to form an established political party in the manner provided for in this Article 10: Provided, that no political organization or group shall be qualified as a political party hereunder, or given a place on a ballot, which organization or group is associated, directly or indirectly, with Communist, Fascist, Nazi or other un-American principles and engages in activities or propaganda designed to teach subservience to the political principles and ideals of foreign nations or the overthrow by violence of the established constitutional form of government of the United States and the State of Illinois.

A political party which, at the last general election for State and county officers, polled for its candidate for Governor more than 5% of the entire vote cast for Governor, is hereby declared to be an "established political party" as to the State and as to any district or political subdivision thereof.

A political party which, at the last election in any congressional district, senatorial district, county, township, school district, park district, municipality or other district or political subdivision of the State, polled more than 5% of the entire vote cast within such congressional district, senatorial district, county, township, school dis-

trict, park district, municipality, or political subdivision of the State, where such district, political subdivision or municipality, as the case may be, has voted as a unit for the election of officers to serve the respective territorial area of such district, political subdivision or municipality, is hereby declared to be an "established political party" within the meaning of this Article as to such district, political subdivision or municipality.

Any group of persons hereafter desiring to form a new political party throughout the State, or in any political subdivision greater than a county and less than the State, shall file with the Secretary of State a petition, as hereinafter provided; and any such group of persons hereafter desiring to form a new political party, in any county shall file such petition with the county clerk; and any such group of persons hereafter desiring to form a new political party in any municipality or district less than a county shall file such petition with the clerk or Board of Election Commissioners of such municipality or district, as the case may be. Any such petition for the formation of a new political party throughout the State, or in any such district or political subdivision, as the case may be, shall declare as concisely as may be the intention of the signers thereof to form such new political party in the State, or in such district or political subdivision; shall state in not more than 5 words ~~the~~ name of such new political party; shall contain a complete list of candidates of such party for all offices to be filled in the State, or such district or political subdivision as the case may be, at the next ensuing election then to be held; and, if such new political party shall be formed for the entire State, shall be signed by not less than 25,000 qualified voters: Provided, that included in the aggregate total of 25,000 signatures are the signatures of 200 qualified voters from each of at

least 50 counties within the State. If such new political party shall be formed for any district or political subdivision less than the entire State, such petition shall be signed by qualified voters equaling in number not less than 5% of the number of voters who voted at the next preceding general election in such district or political subdivision in which such district or political subdivision voted as a unit for the election of officers to serve its respective territorial area.

The filing of such petition shall constitute the said political group a new political party, for the purpose only of placing upon the ballot at such next ensuing election said list of party candidates for offices to be voted for throughout the State, or for offices to be voted for in such district or political subdivision less than the State, as the case may be under the name of and as the candidates of such new political party. If, at such ensuing election, the candidates of said new political party, or any candidate or candidates of said new political party shall receive more than 5% of all the votes cast at such election, in the State, or in any district or political subdivision of the State, as the case may be, then and in that event, such new political party shall become an established political party within the State or within such district or political subdivision less than the State, as the case may be, in which such candidate or candidates received more than 5% of the votes cast and shall thereafter nominate its candiates for public offices to be filled in the State, or such district or political subdivision of the State, as the case may be, under the provisions of the laws regulating the nomination of candidates of established political parties at primary elections and political party conventions, as now or hereafter in force.

Any such petition shall be filed at the same time and shall be subject to the same requirements and to the same provisions in respect to objections thereto and to any hearing or hearings upon such objections that are hereinafter in this Article 10 contained in regard to the nomination of any other candidate or candidates by petition. If any such new political party shall become an "established political party" in the manner herein provided, the candidate or candidates of such new political party nominated by the petition hereinabove referred to for such initial election, shall have power to select any such party committeeman or committeemen as shall be necessary for the creation of a provisional party organization and provisional managing committee or committees for such party within the State, or in any district or political subdivision in which said new political party has become established; and said party committeeman or committeemen so selected shall constitute a provisional party organization for said new political party and shall have and exercise the powers conferred by law upon any party committeeman or committeemen to manage and control the affairs of such new political party until the next ensuing primary election at which said new political party shall be entitled to nominate and elect any party committeeman or committeemen in the State, or in such district or political subdivision under any parts of this Act relating to the organization of political parties.

10—3. Independent candidates—Nomination papers.] § 10-3. Nomination of independent candidates (not candidates of any political party), for any office to be filled by the voters of the State at large may also be made by nomination papers signed in the aggregate for each candidate by not less than 25,000 qualified voters of the State;

Provided, however, that included in the aggregate total of 25,000 signatures are the signatures of 200 qualified voters from each of at least 50 counties within the State. Nominations of independent candidates for public office within any district or political subdivision less than the State, may be made by nomination papers signed in the aggregate for each candidate by qualified voters of such district, or political division, equaling not less than 5%, nor more than 8% of the number of persons, who voted at the next preceding general election in such district or political sub-division in which such district or political sub-division voted as a unit for the election of officers to serve its respective territorial area; provided, that the maximum number of voters signing such petition may be increased to 25 whenever such amount is greater than the 8% limit hereinabove specified. If no previous general election has been held in a library district for which nominations are being made, such nomination papers shall be signed by not less than 25 qualified voters. Each voter signing a nomination paper shall add to his signature his place or residence, and each voter may subscribe to one nomination for such office to be filled, and no more: Provided that the name of any candidate whose name may appear in any other place upon the ballot shall not be so added by petition for the same office.

ARTICLE 21. ELECTORS OF PRESIDENT AND VICE-PRESIDENT OF UNITED STATES

21—1. Manner of choosing Presidential electors—Names of candidates to apear on ballot—Contests—Vacancies.] § 21-1. Choosing and election of electors of President and Vice-President of the United States shall be in the following manner:

(a) In each year in which a President and Vice-President of the United States are chosen, each political party or group in this State shall choose by its State Convention electors of President and Vice-President of the United States and such State Convention of such party or group shall also choose electors at large, if any are to be appointed for this State and such State Convention of such party or group shall by its chairman and secretary certify the total list of such electors together with electors at large so chosen to the Secretary of State of Illinois.

The filing of such certificate with said Secretary of State, of such chossing of electors shall be deemed and taken to be the choosing and selection of the electors of this State, if such party or group is successful at the polls as herein provided in choosing their candidates for President and Vice-President of the United States.

(b) The names of the candidates of the several political parties or groups for electors of President and Vice-President shall not be printed on the official ballot to be voted in the election to be held on the day in this Act above named. In lieu of the names of the candidates for such electors of President and Vice-President, immediately under the appellation of party name of a party or group in the column of its candidates on the

official ballot, to be voted at said election first above named in section 2—1, there shall be printed within a bracket the name of the candidate for President and the name of the candidate for Vice-President of such party or group with a square to the left of such bracket. Each voter in this State from the several lists or sets of electors so chosen and selected by the said respective political parties or groups, may choose and elect one of such lists or sets of electors by placing a cross in the square to the left of the bracket aforesaid of one of such parties or groups. Placing a cross within the square before the bracket enclosing the names of President and Vice-President shall not be deemed and taken as a direct vote for such candidates for President and Vice-President, or either of them, but shall only be deemed and taken to be a vote for the entire list or set of electors chosen by that political party or group so certified to the Secretary of State as herein provided. Voting by means of placing a cross in the appropriate place preceding the application or title of the particular political party or group, shall not be deemed or taken as a direct vote for the candidates for President and Vice-President, or either of them, but instead to the Presidential vote, as a vote for the entire list or set of electors chosen by that political party or group so certified to the Secretary of State as herein provided.

(c) Such certification by the respective political parties or groups in this State of electors of President and Vice-President shall be made to the Secretary of State within two (2) days after such State convention.

(d) Should more than one certificate of choice and selection of electors of the same political party or group be filed by contesting conventions or contesting groups, it shall be the duty of the State Electoral Board within ten

(10) days after the adjournment of the last of such conventions to meet in the office of the Governor and determine which set of nominees for electors of such party or group was chosen and selected by the authorized convention of such party or group. The Secretary of State shall notify the members of the electoral board of the date, time and place of such meeting. At such meeting a majority of the said members present, after notice to the chairman and secretaries or managers of the conventions or groups and after a hearing shall determine which set of electors was so chosen by the authorized convention and shal so announce and publish the fact, and such decision shall be final and the set of electors so determined upon by the electoral board to be so chosen shall be the list or set of electors to be deemed elected if that party shall be successful at the polls, as herein provided.

(e) Should a vacancy occur in the choice of an elector in a congressional district, such vacancy may be filled by the executive committee of the party or group for such congressional district, to be certified by such committee to the Secretary of State of Illinois. Should a vacancy occur in the office of elector at large, such vacancy shall be filled by the State committee of such political party or group, and certified by it to the Secretary of State of Illinois. As amended by act approved June 22, 1951. L.1951, p. 468.